



AN ACT REVISING THE PUBLIC SERVICE COMMISSION APPEALS PROCESS IN CONTESTED CASES TO CONFORM WITH THE PROCEDURES OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTIONS 69-3-308 AND 69-3-330, MCA; REPEALING SECTIONS 69-3-401, 69-3-402, 69-3-403, 69-3-404, AND 69-3-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-3-308, MCA, is amended to read:

"69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate adjustment and tracking for taxes and fees. (1) A public utility may separately disclose in a customer's bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying.

(2) (a) (i) [Except as provided in 15-72-601,] the commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule changes must include:

(A) adjustments for the net change in federal and state income tax liability caused by the deductibility of state and local taxes and fees;

(B) retroactive tax adjustments; and

(C) adjustments related to the resolution of property taxes paid under protest.

(ii) The rate schedules must include provisions for annual rate adjustments, including both tax increases and decreases.

(b) The amended rates must automatically go into effect on January 1 following the date of change in taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

(c) The amended rate schedule must be filed with the commission on or before the effective date of the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the

commission may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public utility to address any errors or omissions including, if necessary, any refunds due customers.

(d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on the part of the commission.

(e) A public utility may challenge an order issued by the commission under subsection (2)(c) in accordance with the provisions of ~~69-3-401 through 69-3-405~~ 2-4-701 through 2-4-711."

Section 2. Section 69-3-330, MCA, is amended to read:

"69-3-330. Decision by commission. (1) If, upon ~~such a~~ a hearing and due investigation, the rates, tolls, charges, schedules, or joint rates are found to be unjust, unreasonable, or unjustly discriminatory or to be preferential or otherwise in violation of the provisions of this chapter, the commission may fix and order substituted ~~therefor such~~ the rates, tolls, charges, or schedules as are just and reasonable.

(2) If the commission determines that a rate, toll, or charge has been collected in violation of 69-3-305(1)(b), the commission may order refunds or credits as specified in 69-3-305(3).

(3) If the commission finds that any regulation, measurement, practice, act, or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise in violation of the provisions of this chapter or that the service is inadequate or any reasonable service cannot be obtained, the commission may substitute ~~therefor~~ other regulations, measurements, practices, services, or acts and make ~~such an~~ an order relating ~~thereto to it~~ to it as is just and reasonable.

(4) In any decision ordering a change in the rates ~~which that~~ that may be charged for electricity or natural gas, the commission shall list each expenditure submitted by the utility for allowance as an operating cost ~~which that~~ that is disallowed by the commission as an element of operating costs. The list of disallowed expenditures ~~shall~~ must appear in the written decision of the commission and ~~shall~~ must itemize each expenditure by amount, category, and purpose.

(5) A party in interest who is aggrieved by a commission-contested case decision may petition for judicial review pursuant to the Montana Administrative Procedure Act in accordance with Title 2, chapter 4, part 7."

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

- 69-3-401. Effective date of commission orders.
- 69-3-402. Action to challenge commission order.
- 69-3-403. Injunctive relief.
- 69-3-404. Review confined to record -- exceptions.
- 69-3-405. Appeal of court decision.

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 213, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 213

INTRODUCED BY K. REGIER

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